FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the	)	CC Docket No. 96-115
Telecommunications Act of 1996	)	
	)	
Telecommunications Carriers' Use of	)	
Customer Proprietary Network Information	)	
and Other Customer Information	)	

To: The Commission

COMMENTS OF THE CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION IN RESPONSE TO THE CLARIFICATION ORDER AND SECOND FURTHER NOTICE OF PROPOSED RULEMAKING

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Table of Contents

Summary

The Cellular Telecommunications & Internet Association respectfully submits the following comments in response to the Federal Communications Commission's Clarification Order and Second Further Notice of Proposed Rulemaking regarding customer proprietary network information ("CPNI"). In these comments, CTIA shows that the Commission's interpretation of the Tenth Circuit Court of Appeal's decision invalidating the Commission's CPNI rules fails to adopt a narrowly-tailored approach that both protects privacy while preserving free speech.

CTIA recommends that the Commission consider the Federal Trade Commission's Fair Information Practices as the framework for this rulemaking. The FTC's approach represents the Administration's current policy for addressing privacy issues. As FTC Chairman Muris recently stated, the best approach to consumer privacy is greater enforcement of company "privacy promises" and less regulation.

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The Cellular Telecommunications & Internet Association ("CTIA")[1] respectfully submits the following comments in response to the Federal Communications Commission's ("the Commission") Clarification Order and Second Further Notice of Proposed Rulemaking regarding the obligation of carriers under Section 222 of the Telecommunications Act of 1996 to protect customer proprietary network information ("CPNI").[2] The Commission commences its work on remand from the Tenth Circuit Court of Appeals vacatur of the

[1] CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

[2] *In the Matter of Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, As Amended,* Clarification Order and Second

Commission's CPNI rules. The Tenth Circuit wiped the CPNI slate clean, but the Commission wrongly clings to a narrow interpretation of the Court's decision. Rather than defending a failed past, in these comments, CTIA proposes a fresh approach to this further rulemaking and urges the Commission to use the Federal Trade Commission's Fair Location Information Practices as a model for moving forward.

I. THE COMMISSION INCORRECTLY ANALYZES THE EFFECT OF THE TENTH CIRCUIT COURT OF APPEALS DECISION ON ITS CPNI RULES

On May 17, 1996, the Commission initiated a rulemaking regarding carriers' obligations under Section 222 to protect CPNI. The Commission subsequently released its CPNI Order on February 26, 1998.[3] The *CPNI Order* imposed regulations that required carriers (1) to notify customers of their rights under Section 222, and (2) to obtain express approval before using CPNI to market services outside the customer's existing service relationship with that carrier.

After numerous reconsideration petitions and revisions of the Commission's *CPNI Order*, several carriers and interest groups challenged it on the grounds that the proposed

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Further Notice of Proposed Rulemaking, CC Docket Nos. 96-115 and 96-149 (Rel. Sept. 7, 2001) ["*Clarification Order"*].

[3] *In the Matter of Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, As Amended,* Second Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-115 (Rel. Feb. 26, 1998) ["*CPNI Order"*].

CPNI restrictions violated the First Amendment.[4] Ultimately, the Tenth Circuit agreed, concluding that the Commission failed to consider the constitutional ramifications of the CPNI regulations and failed to substantiate its opt-in regime.[5] Accordingly, the court vacated the "CPNI Order and the regulations adopted therein."[6]

The Commission takes the position that the Tenth Circuit's vacatur applied only to a single provision of the CPNI rules, 47 C.F.R. 64.2007(c).[7] Section 64.2007(c), according to the Commission, is "the only provision inextricably tied to the opt-in mechanism."[8] However, the court did not simply vacate the specific opt-in method of customer approval; it vacated the entire Section 64.2007 rulemaking as constitutionally inadequate, failing all three prongs of *Central Hudson Gas & Electric Corporation v. Public Service Commission of New York*, 447 U.S. 557 (1980). As much as the Commission might like to limits its work to the last prong of the *Central Hudson* test, it must conduct the entire inquiry.

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[4] *See U.S. West v. FCC*, 182 F.3d 1224 (10th Cir. 1999), *cert. denied*, 147 L. Ed. 2d 248, 120 S. Ct. 2215 (2000).

[5] *Id.* at 1240.

[6] *Id.*

[7] The Commission's reliance on its own order in *AT&T Corp. v. New York Telephone Company, d/b/a Bell Atlantic – New York*, File No. EB-00-MD-011, Memorandum Opinion and Order, FCC 00-362, para. 17 (rel. Oct. 6, 2000) as authority for the scope of the Tenth Circuit's vacatur order is disingenuous. Whether the Tenth Circuit addressed issues regarding Section 272 has no bearing on the extent to which the court rejected the Commission's Section 222 rules.

[8] *Clarification Order,* ¶ 7.

Not only has the Commission misconstrued the Tenth Circuit's *Central Hudson* analysis, but it also makes several other errors in attempting to salvage its regulations. First, the Commission contends that if the court had intended to vacate the entire *CPNI Order*, it would have said so explicitly. Setting aside the fact that CTIA believes the court did just that, the Commission's contention is not supported by law. In fact, the law appears to be just the opposite and courts clearly have shown that they know how to order partial vacatur or remand without vacatur when that is what is meant.[9]

Second, the Commission's suggestion that the court vacated only Section 64.2007(c) disregards the court's inclusive definition of the term "CPNI Order," and its repeated use of the plural "regulations." The court specifically voided the "CPNI Order and the regulations adopted therein."[10]

Third, if the scope of the court's vacatur is truly as narrow as the Commission believes, under what authority does the Commission seek comment on the notification provisions? That the Commission requested comment on the notice rules undermines its argument regarding the scope of the vacatur order, but implicitly (and wisely) recognizes that the notice and approval rules should be, indeed must be, reconsidered together.

Fourth, to narrow the court's ruling to the extent urged by the Commission is to presuppose the outcome of this next rulemaking. For example, asking for comment on the

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[9] *See e.g., Splane v. West*, 216 F.3d 1058, 1070 (Fed. Cir. 2000) (ordering partial vacatur); *see also Allied-Signal, Inc. v. NRC*, 988 F.2d 146, 151 (D.C. Cir. 1993) (remanding rule to agency without vacating).

[10] *U.S. West*, 182 F.3d at 1240.

customer notification provisions is meaningless where the Commission already has determined that these requirements are "applicable under any approval regime."[11] The notice provisions cannot be sealed in a vacuum. They, too, must be evaluated in light of *Central Hudson's* "narrowly tailored" analysis.

Indeed, because Section 222 is self-executing on its face, it may be argued that no rules are necessary to implement it. Thus, whether a customer has received notice of a carrier's practices or has provided the statutorily-mandated approval to release CPNI will always be discernable through an enforcement proceeding. To satisfy *Central Hudson* on this remand, the Commission must show that its more prescriptive regime (assuming the Commission stays the course with the existing rule) is narrowly tailored to its object of protecting the privacy of CPNI, and that its regulations directly and materially advance a legitimate government interest.

In short, the Tenth Circuit's order wiped the slate clean. The Commission should proceed with the premise that no rule at all may be needed. Should the record show otherwise, the Commission must build the case for a narrowly tailored set of rules. For example, a rule that carriers follow the FTC's general guidance privacy principles by providing customers notice and opportunity to consent to information practices coupled with vigorous enforcement should a carrier ever violate its "privacy promises" achieves the Commission's privacy objective in the most narrowly tailored means. The remainder of

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[11] *Clarification Order*, ¶ 7, n.23.

these comments are dedicated to explaining why the FTC's Fair Information Practices meet the requirements of Section 222.

II. THE COMMISSION SHOULD ADOPT THE FTC'S FAIR INFORMATION PRACTICES INSTEAD OF A PRESCRIPTIVE CPNI REGIME

As the Commission notes in its *Clarification Order*, CTIA filed a petition earlier this year urging the Commission to adopt the FTC's Fair Information Practices approach for location information to implement the location privacy provisions of the Wireless Communications Public Safety Act of 1999.[12] Because location privacy is unique to the wireless industry, CTIA asked the Commission to proceed with a rulemaking separate from the CPNI proceedings under consideration here.[13] A rapid rulemaking and adoption of CTIA's location privacy principles would have been an important inducement to the continued growth of the location services industry and earlier availability and implementation of E9-1-1 technology while creating and ensuring a uniform, national framework for dealing with location information.

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[12] *Clarification Order,* ¶ 22; Petition of the Cellular Telecommunications and Internet Association to Commence Rulemaking to Establish Fair Location Information Practices ["*Location Petition*"].

[13] There is, of course, precedent for treating the wireless industry separately than other segments of the telecommunications industry when different technology or circumstances warrant. For example, in the Commission's Enhanced 911 rulemaking, differences between the wireline and wireless industries justified different rules. *See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Report and Order and Further Notice of Proposed Rulemaking, FCC 96-264, Docket No. 94-102.

The Commission, however, initiated this rulemaking first and now asks "whether there are any other laws or regulatory schemes governing matters similar to CPNI that the Commission might use as an analog."[14] We think the answer is clear. Starting with the clean slate mandated by the Tenth Circuit decision, the FTC's framework for Fair Information Practices can now serve the Commission as an important guide in this rulemaking. [15]

Indeed, adoption of the FTC's privacy framework likely is the only approach that can satisfy the *Central Hudson* test. This is because, at the end of the day, adoption of a set of principles to ensure that customers have notice of information practices and an opportunity to consent to the uses of information is the least restrictive method of ensuring privacy while preserving the Constitutional right to free speech.

We next review and expand on the FTC's privacy principles for carriers, specifically apply them within the context of the Tenth Circuit's decision and urge the Commission to adopt this framework for Section 222.[16]

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[14] *Clarification Order,* ¶ 16.

[15] The FTC's Fair Information Practices are set out in CTIA's *Location Petition. See In the Matter of Petition of the Cellular Telecommunications & Internet Association Petition for a Rulemaking to Establish Fair Location Information Practices*, Notice of Request for Comments, DA –1-696, WT Docket No. 01-72 (Mar. 16, 2001). The response to the Commission's request for comments on the CTIA Petition strongly supported the proposed principles and approach.

[16] In its *Location Petition,* CTIA discussed the important principle of technology neutrality in regard to the form of authorization to disclose location information as CPNI under Section 222(f). CTIA's comments in the *Location Petition* remain valid and need not be repeated in these comments.

A. General Principles

As CTIA noted in its *Location Petition*, privacy principles rely on well-established Fair Information Practices that apply equally to any customer information collected by a carrier.[17] The FTC's privacy principles provide for notice, consent, security and integrity of information, and technology neutral rules. Thus, once a carrier informs its customer about its privacy practices, failure to abide by these "privacy promises" would be actionable and enforceable under at least the Federal Trade Commission's ("FTC") authority to prevent unfair or deceptive trade practices.[18]

Remarkably, the entire Internet industry today is governed by this regime. Just this month, the Chairman of the FTC praised industry for its steady march toward a self-regulatory privacy regime and expressed his belief that "industry will continue to make privacy a priority."[19]

For its part, the FTC intends to increase its oversight and enforcement of privacy practices without regard to whether such practices occur online or offline because, as the Chairman aptly noted: "it is difficult to see why one avenue of commerce should be subject

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[17] *See Privacy Online: Fair Information Practices in the Electronic Marketplace, A Report to Congress*, Federal Trade Commission, (May 2000) at 3-4.

[18] *See Protecting Consumers' Privacy: 2002 and Beyond,* Remarks of FTC Chairman Timothy J. Muris (Oct. 4, 2001) www.ftc.gov/speeches/muris/privisp1002.htm. Likewise, the Commission would have authority to enforce any rule that required carriers to inform customers of their privacy practices and to abide by the terms therein.

[19] *Id.*

to different rules than another, simply based on the medium in which it is delivered."[20] This is an important point and applies with force to CPNI because Section 222 only applies to information obtained "by virtue of [a carrier's] provision of a telecommunications service."[21]

Thus, information obtained by providing wireless Internet access or some other *information service* through a wireless terminal device, whether a browser-enabled mobile phone or a wireless PDA, is not protected by Section 222. Instead, CTIA assumes that FTC jurisdiction would extend to such services. CTIA's proposed privacy principles likewise could and would be applied to such services. For example, there is a privacy policy on every major wireless carrier's home page today that describes information practices for its service offerings.[22]

Chairman Muris concluded that, in view of the substantial progress being made, new rules were not required to address legitimate consumer privacy concerns. Instead, as he put it: "[a]t this time, we need more law enforcement, not more laws."[23] As a general principle, CTIA embraces Chairman Muris' views and urges the Commission to follow the FTC's lead

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[20] *Id.*

[21] 47 U.S.C. 222(c)(1)

[22] *See e.g.,* www.nextel.com/registration/privacy_policy.shtml and http://www.attws.com/privacy**.** CTIA's own commitment to privacy may be viewed at http://www.wow-com.com/ctia/about/articles.cfm?ID=558.

[23] *Id.*

in this rulemaking. Not only does this approach mirror the Administration's current policy for addressing privacy issues, *Central Hudson* demands no less.

B. Notice

The cornerstone of the FTC's privacy principles is notice. In its *Location Petition*, CTIA urged that carriers inform the customer about specific information collection and use practices *before* any disclosure or use of personal information takes place.[24] In the many comments received, there was no controversy regarding the concept that carriers give customers notice of their information collection practices.[25] As Sprint PCS stated in its comments: "Notice is the most fundamental of all principles because, without notice, a

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[24] By "collection," CTIA explained that it meant the acquisition of location information other than that used to complete a call or provide a subscriber access to a network. *Location Petition* at 9, n.22; CTIA Reply Comments at 13. Similarly, CTIA agreed with the Wireless Location Industry Association that there is no collection activity when the information collected is not directly linked to a customer identity. Comments of the Wireless Location Industry Association at 6 (citing example of aggregation of signals to determine the general concentration of wireless activity along a highway).

[25] *See e.g.,* Comments of AT&T Wireless at 4 ("informing customers about the collection and use of location information for enhanced location services will aid consumers."); Comments of Cingular Wireless at 2 ("Cingular agrees that notice should be a fundamental obligation."); Comments of the Direct Marketing Association at 2 (DMA's Privacy Promise to American Consumers includes providing notice); Comments of Location Privacy Association at 3 ("Prior notice . . . is essential for subscribers."); Comments of the Rural Telecommunications Group at 3 ("[L]ocation service providers must give the customer fair, obvious notice.").

consumer cannot make an informed decision as to whether (and to what extent) to disclose personal information."[26]

CTIA explained in its *Location Petition* that there were several ways in which a carrier could inform a customer about its information practices. To name a few, CTIA suggested that notification could be included in a service agreement prior to the commencement of services or the provider could describe its policies in electronic mail, on a web site, or in a letter sent to subscribers.[27] Verizon Wireless advised the Commission that it already informs customers about its privacy policies through "bill messages, web site information, and advertising."[28]

CTIA's main concern was to ensure that the Commission appreciated the fact that notice must fit the circumstances. CTIA urged that it was not necessary for the Commission to prescribe a uniform method of notice and this position was supported by the Comments.[29] Yet, the Commission's current rule only permits or envisions written or oral notice.[30] Why not electronic means such as through a Web site notice or electronic mail? There is no reason to demand more costly (e.g., written) notice when a carrier is in possession of an

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[26] Sprint PCS Comments at 11.

[27] *Location Petition* at 9.

[28] Comments of Verizon Wireless at 5.

[29] *Location Petition* at 9, n. 23. *See also* Sprint PCS Comments at 11 (inappropriate for government to "micromanage details of the notice).

[30] 47 C.F.R. 64.2700(f)(1).

email or SMS address for a customer and can deliver the notice electronically in a virtually costless manner.

The CPNI rules also require a one-time notification before soliciting approval for any use of CPNI and prescribe the contents of the notice.[31] Yet nothing in Section 222 remotely requires this heavily bureaucratic approach. The Commission must show, to meet the narrow tailoring requirements of *Central Hudson*, that there is a harm that will be addressed by these rules that cannot or *is not* being addressed otherwise or through more narrow means.

For example, the Commission fails to recognize that carriers, as noted above, already post general privacy policies that address the range of collection, use, and disclosure of personal information. CTIA believes that it is enough to require carriers to provide notice of their information practices in a form and manner appropriate to the circumstances, which may include combining notice of CPNI practices with other personal information practices in a privacy statement. If a carrier omits material facts or misstates actual practices, enforcement mechanisms exist to vindicate the wrong. Nothing more is required.

C. Consent

Section 222 codifies the principle of customer choice before disclosure of CPNI.[32] Yet the Commission has limited its entire range of discussion to short-hand privacy jargon

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[31] 47 C.F.R. 64.2700(f).

[32] CTIA notes that Section 222 only reached disclosure of CPNI. It does not address collection or internal use of the information. Thus, another merit to or benefit of adopting the CTIA privacy principles is that we recommend that customers be advised of a carrier's collection, use, disclosure and protection of personal information.

over whether consent is "opt in" or "opt out." CTIA believes that the guiding principle should be that the customer must unambiguously consent to the carrier's information practices in a manner appropriate to the circumstances.

Thus, consent may be implicit yet unambiguous such as in the location services or E9-1-1 context when a customer calls a location-based concierge service and asks for driving directions or calls for roadside assistance or emergency aide. [33] Obviously, to complete the requested transaction, the concierge service must access and use the caller's location. However, without further notice and approval, the consent would extend only to the use of location information for that particular transaction.

Similarly, many carriers outsource billing or other operations. A customer's consent to the disclosure of information for purposes of billing is implicit. Here again, without further notice and approval, the consent extends only so far as necessary for the billing agent to render the service.[34]

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[33] *See* Memorandum Opinion for John C. Keeney, Acting Assistant Attorney General, Criminal Division, from Richard L. Shiffrin, Deputy Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice, (Sept. 10, 1996)(filed in CC Docket 94-102)("the caller, by dialing 911, has impliedly consented to such disclosure").

[34] Most carriers currently explain as much in their privacy policies and further advise that such transfers are governed by contract and the vendor held to the carrier's privacy standard. *See e.g.,* AT&T Wireless Privacy Policy, www.attws.com/privacy which provides:

> We share personal information with third parties as necessary to complete a transaction, perform a service on our behalf or that you have requested or to enhance our ability to serve you better. When the third party acts solely on our behalf, AT&T Wireless will require them to follow our privacy practices. For example, our vendors process and

Note that the concept of "opt in" or "opt out" is irrelevant to the concept of unambiguous consent; rather, the terms merely describe two means of demonstrating approval. Under the FTC's privacy principles, consent may be made manifest in written, oral, electronic or other form so long as it evidences the customer's unambiguous desire to participate in the service or transaction. These principles contemplate that consent could be obtained through signed and written service agreements, online via Web-based subscriptions or "clickwrap" agreements, ad hoc via user signaling on the wireless device, or verbally through an IVR or customer service or sales representative.

Thus, a carrier could notify a customer of its information practices at the time a customer subscribes. If the customer initiates service after such notice, there should be no dispute that consent has been given and is adequate to satisfy Section 222. Should the privacy practices of the carrier change, the customer may terminate the service if such practices are no longer acceptable.[35]

Section 222 also contains numerous exceptions to the consent requirement such as when CPNI is disclosed or used in the course of responding to a user's emergency service request, in response to lawful authorization, and when CPNI is made anonymous and used in

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> print your billing statement on our behalf. They can only use the personal information we give them to produce the billing statement.

[35] Currently, the Commission's rules state that a customer must be notified that his denial of approval will not affect the provision of any services to which the customer subscribes. 47 C.F.R. 64.2007(f)(2)(iii). While such a rule may be appropriate for residential wireline service, it surely cannot stand for the highly competitive wireless market where a customer has many options from which to choose and many service plans available. A carrier may well price its service based on the ability to share CPNI or not as the case may

the aggregate with other such information. Nothing in these comments is intended to alter or limit the applications of these exceptions.

CTIA notes that there was widespread support for its flexible and broad interpretation of the authorization requirements of Section 222 in response to its *Location Petition*. For example, AT&T Wireless "strongly support[ed] CTIA's flexible approach to obtaining customer consent."[36] Leap Wireless "supports a flexible regime that allows a customer to grant consent in a variety of ways and through multiple channels."[37] The two members of the Wireless Privacy Association – Airbiquity and QUALCOMM -- pointed to their technology-based consent system where the customer actually activates a feature in the handset to "opt in" to a location-based service or transaction.[38] SiRF Technology, which sells chipsets and modules to manufacturers, "enthusiastically" supported CTIA's proposals and provided the Commission with a broad-ranging discussion of the different circumstances and forms of consent that might be faced by service providers and consumers.[39]

CTIA expects that the comments will be the same in this proceeding. The Commission's concern should be that the customer's consent be made manifest prior to the disclosure of CPNI rather than prescribing its form.

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be. Market forces will always provide a competitive service where privacy is a valued feature.

[36] Comments of AT&T Wireless at 5.

[37] Comments of Leap Wireless International, Inc., at 5.

[38] Comments of the Wireless Location Association at 5.

[39] Comments of SiRF Technology at 6-8.

Lastly, CTIA recognizes that Section 222 could be read to put forward three different standards for consent: (1) approval under Section 222(c)(1), (2) affirmative written request under Section 222(c)(2); and (3) express prior authorization under Section 222(f) for location information only. CTIA believes these are differences without distinction and that the flexible approach described above meets the meaning and spirit of each standard.

For example, an affirmative written request may be in electronic form today. Under the Electronic Signatures in Global and National Commerce Act ("E-Sign Act"), an "electronic signature" is "an electronic sound, symbol or process attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record."[40] Thus, for the Commission to be in step with E-Sign, it must permit a flexible array of means to evidence a written request and may not require a writing alone.[41]

For location information derived from a telecommunications service, the requirement for express prior authorization was codified well after the Tenth Circuit invalidated the Commission's rules requiring an opt in for disclosure of CPNI. Had Congress intended or desired to make express prior authorization coextensive with "opt in," it would simply have

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[40] Pub. L. No. 106-229, 114 Stat. 464 (2000).

[41] The Commission should see here again what mischief or unintended consequences might flow from rules that are too prescriptive. The Commission's current rule, which it says it does not intend to change, states that "[a] carrier also may state in the notification that it may be compelled to disclose CPNI to any person upon affirmative written request by the customer." 47 C.F.R. 6007(f)(2)(vii). While perhaps literally true, E-Sign certainly provides an array of other methods that should suffice and this rule, no doubt intended to be pro-competitive, actually becomes a hurdle to customer choice.

used the term.[42] CTIA submits that its framework best addresses the seemingly differing standards because consent in all cases must be unambiguous and made manifest under the circumstances before a carrier may disclose CPNI. Thus, consent with notice to disclose location information obtained as part of an overall service agreement at the time of service initiation clearly is express, prior and authorization.

D. Security and Integrity

In its *Location Petition,* CTIA put forward as a general security principle that carriers should maintain any location information collected securely and protected from unauthorized access and disclosure to third parties. In its comments, Cingular Wireless agreed and emphasized that a safe harbor rule would be desirable to protect a service provider from liability when it has exercised reasonable care in its security systems.[43] This is the same approach followed by the FTC. CTIA agrees and the same principle and comments apply to this rulemaking.[44]

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[42] *See e.g.,* The Graham-Leach-Bliley Act, 15 U.S.C. 6802(b) (denominated "Opt Out"), enacted in November 1999, one month after the WCSPA. Significantly, Congress did not mandate a specific opt-in regime for what many would agree is much more sensitive information than numbers dialed and duration of a call – a person's entire personal, financial picture.

[43] Comments of Cingular Wireless LLC at 4.

[44] Some might question whether a security principle is appropriate because Section 222 does not mention protection of the personal information. CTIA believes that such a principle is encompassed within the general duty to maintain the confidentiality of customer information under Section 222(c)(1).

III. CONCLUSION

The Commission should abandon its defense of its prior CPNI rules in the face of the Tenth Circuit's decision and vacatur order and embrace the FTC's Fair Information Practices as the framework for any further rulemaking.

Respectfully submitted,

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